IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

Bail Appl..No. 4367 of 2007()

CRIME NO.148/02 OF THENGIPALAM POLICE STATION

PETITIONER/1ST ACCUSED

FEBIN, S/O MOOSAKOYA,
KUTTIYIL HOUSE, ANUGRAHAM, KOYA ROAD,
PUTHIYAKATH, MANCAT, KOZHIKODE.

BY ADV. SRI.M.K.DAMODARAN (SR.)
SRI.GILBERT GEORGE CORREYA

RESPONDENTS: COMPLAINANT

STATE OF KERALA REPRESENTED BY THE
CIRCLE INSPECTOR OF POLICE,
THIRURANGADI.
(CRIME 148/2002, THENGIPALAM POLICE STATION).

BY P.P. SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. NO. 4367 OF 2007

Dated this the 19th day of July, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations in a crime registered, inter alia, under Sec.376 of the IPC. Investigation is complete. Final report has already been filed. Committal proceedings was registered before the learned Magistrate. The petitioner was not available for trial in the course of investigation. Even before the committal court, he could not appear as he was employed abroad. The co-accused have already been committed to the Court of Sessions. The petitioner's case has been split up and is continuing to be pending in the committal court. The petitioner, who is employed abroad, has come back to India. He is willing to surrender before the learned Magistrate. There is a sense of urgency on his part as, according to him, he has to return after the period of leave of 45 days. The trial in

the connected sessions case against the co-accused has commenced. The petitioner is now willing to surrender before the learned Magistrate. He wants the case against him also to be committed to the Court of Session expeditiously so that he can take a chance and make a request to the learned Magistrate to consolidate both the sessions cases and proceed together with the trial. I am of opinion that it is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

2. I do further observe that the learned Magistrate must take steps expeditiously for committal of the petitioner's case to the Sessions Court so that the petitioner can, if possible, make a request to the learned Sessions Judge to consolidate the trial against all the accused in the same crime and dispose of the

same expeditiously.

3. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge